

MONSANTO

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MONSANTO COMPANY

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January 21, 2003

Submitted via e-mail: echo@epa.gov

Rebecca Kane
Environmental Protection Agency
Office of Enforcement and Compliance Assurance, MC 2222A
1200 Pennsylvania Avenue NW
Washington, DC 20460

Dear Ms. Kane:

Monsanto Company submits these comments in response to the Federal Register notice regarding the Enforcement and Compliance History Online (ECHO) website [67 FR 70079, November 20, 2002]. Monsanto is a producer of agricultural seeds and chemicals with manufacturing locations in the United States. We have an interest in this website as the enforcement and compliance history of our locations are represented in this new Internet ECHO site.

Monsanto supports the Environmental Protection Agency's (EPA's) commitment to public access to enforcement and compliance history of the regulated industry. We applaud EPA's initiative in creating a searchable Web format with these data records for easier public access.

Two of our locations are charter members of EPA's Performance Track program. Membership in this program requires, among other things, a comprehensive environmental management system, an extensive pollution prevention program and an effective community outreach program. Monsanto believes as part of community outreach, accurate, user-friendly information needs to be readily available. In this light, we offer the following comments:

1. **Monsanto believes it is imperative to make sure information and data are accurate prior to releasing information to the public.** As the website was issued to the public, much of the damage of having inaccurate information has already occurred. There were many errors regarding the Monsanto locations. EPA has requested corrections from the regulated facilities for their individual sites, and we have submitted these corrections via the website. Nevertheless, use of this website corrections method produces many problems. First, it is unclear who has the authority to request correction and/or revision of the data. As such, anyone without knowledge of the facility can request these revisions. Significant EPA/state resources could be wasted in tracking down invalid claims should someone want to dishonestly use the site. It also seems appropriate that if information is to be posted to the public, the sites should be contacted before posting to ensure the data is correct. As with the Toxic Release Inventory (TRI) data, the TRI center sends "Facility Data Profiles" to the individual facilities for any corrections prior to posting the data. A similar system should be used prior to posting any data that, if incorrect, could cause confusion and mistrust of the system.

2. **Monsanto recommends posting only the actual dates of the alleged compliance issues, as the prescribed duration identification method is misleading.** The prescribed approach of listing the duration between the inspection date and issue closure date is not only misleading but also incorrect. A case in point is a Monsanto site that was inspected on September 26, 2001. Two undocumented RCRA inspections of a storage tank were identified for February 3 and 4, 2001. A notice of violation was issued by the state in which we responded to it within four days. However, we did not receive a violation closure letter until March 21, 2002. On the ECHO website using the noted prescribed approach of listing the inspection date and closure date, it stated that the non-compliance lasted **three (3) quarters**. Clearly, this approach of denoting length of the non-compliance misrepresents the actual time of the compliance issue. Monsanto recommends posting only the actual dates of the alleged compliance issues; and in this case, the website should only note the two days that the inspections were not documented.

Another example is where there was a training record gap for one employee last year. This is misrepresented as 5 months of non-compliance on the website.

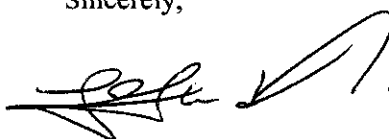
Another Monsanto location had a non-compliance issue that was resolved in 1999 in which we paid a fine to the state (also in 1999) and have operated in full compliance since that time. However, the EPA subsequently overfiled on the case requesting a large penalty. We are continuing our legal right of due process in contesting the overfiling in Federal court. Even though the compliance issue was addressed in 1999, the ECHO database shows this site as currently out of compliance on a continuous basis with "current significant violations". Such portrayal of the situation is not only misleading to our neighbors, but is an injustice to the site that has worked very hard over the years to maintain full compliance with their Title V permit requirements. Monsanto recommends posting only the actual dates of the alleged compliance issues; and in this case, since full compliance demonstration was provided back in 1999, it should be removed from the website because it exceeds the 2-year history window.

3. Along with the enforcement and compliance history, **Monsanto believes it is important to inform the public if the facility participates in the EPA Performance Track as well as all dates of any Performance Track inspections conducted by the EPA.** As stated by EPA, the Performance Track program represents a proactive approach to complying with the environmental regulations and pollution prevention. It is important to inform the public if the facility in their neighborhood is not only currently complying with the laws, but also if it is participating in the proactive program to ensure compliance in the future. Such recognition will be another benefit of being in the Performance Track program. It is also important that the public has knowledge of the periodic EPA inspections that take place as part of the program.

4. **Monsanto is concerned with posting data which is obsolete and requests that the website provide only reports and data not more than 3 years old.** For example, a 1997 annual hazardous waste report is provided for one of our locations. As the site is required to only keep these records for three years, it is impossible to ascertain whether the obsolete data is/was correct. It is unclear what value making available old reports provides to the public and, in fact, may cause confusion. In the website, we are requesting these old facility reports and obsolete data (e.g. TRI data) be eliminated, but herein these comments, Monsanto requests that the website as a whole take the approach of providing only facility reports and data not more than 3 years old.

Monsanto appreciates the opportunity to comment on these very important issues. If there are any questions, please give the undersigned a call at (314) 694-6355 or reply by e-mail to l.glen.kurowski@monsanto.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'L. Glen Kurowski', with a large, stylized flourish extending to the right.

L. Glen Kurowski
Manager, Environmental Affairs